

ARC 8039B

ENVIRONMENTAL PROTECTION COMMISSION[567]

Adopted and Filed

Pursuant to the authority of Iowa Code sections 455B.105 and 455B.173, the Environmental Protection Commission hereby amends Chapter 61, "Water Quality Standards," Iowa Administrative Code.

Notice of Intended Action was published in the Iowa Administrative Bulletin on March 11, 2009, as **ARC 7624B**. Six public hearings were held with notice of the hearings sent to various individuals, organizations, associations and interest groups, and to statewide news network organizations. Comments were received from approximately 252 persons and organizations. A responsiveness summary addressing the comments can be obtained from the Department of Natural Resources.

The adopted amendment has been modified from that published in the Notice. Prior to presenting the amendment to the Environmental Protection Commission for approval, the Department made specific changes to two stream segments. The modifications were made after all comments from the public comment process were considered. The changes made to the amendment prior to presentation to the Commission are as follows:

1. Ballard Creek (Story Co.) — added Class A3 near the City of Cambridge.
2. Little Maquoketa River (Dubuque Co.) — changed from Class A2 to Class A1 from Durango to Asbury Road.

The modified amendment was presented to the Environmental Protection Commission on June 16, 2009, and July 21, 2009. Public comments were accepted, and the amendment was discussed by the Commission. The Commission adopted the above changes to the stream classifications, adopted by reference in this rule making, at the July 21, 2009, meeting. In addition to adopting the two changes described above, the Commission also adopted the following revisions:

The following stream segment has been removed from the rule making because the Commission determined that this stream warrants a Class A1 recreational use designation:

- Hartgrave Creek in Franklin County and Butler County from the Mouth (S34, T92N, R18W, Butler Co.) to confluence with Squaw Cr. (S28, T92N, R19W, Franklin Co.).

The following stream segment has been changed by the Commission to a Class A3 recreational use designation.

- Little Bear Creek in Poweshiek County throughout the City of Brooklyn (from E. Line S23, T80N, R14W Poweshiek Co. to the confluence with Unnamed Creek (NW14, SE1/4, S22, T80N, R14W Poweshiek Co.)).

The Commission tabled action on 32 stream segments proposed for Class A2 and approved the remainder of the streams listed in the Notice of Intended Action.

In addition to the modifications and revisions described above, this Adopted and Filed rule making changes the Commission's Water Quality Standards (WQS) from those proposed under Notice of Intended Action as summarized below:

The following stream segments were approved:

Class A2 Stream Segments

1. Big Bear Creek (Poweshiek/Iowa Co.)
2. Deep Creek (Plymouth Co.)
3. East Nodaway River
4. Elk Run (Black Hawk Co.)
5. Flint Creek (Des Moines Co.)
6. Granger Creek (Dubuque Co.)
7. Little Bear Creek (Poweshiek Co.) (previous A2 segment split into two segments)
8. Little Bear Creek (Poweshiek Co.) (previous A2 segment split into two segments)
9. Mud Creek (Benton Co.)
10. Otter Creek (Franklin Co.)

ENVIRONMENTAL PROTECTION COMMISSION[567](cont'd)

11. Otter Creek (Franklin Co.)
12. Shoal Creek (Appanoose Co.)
13. South Timber Creek (Marshall Co.)
14. Spring Creek (Franklin Co.)
15. Spring Creek (Franklin Co.)
16. Squaw Creek (Franklin Co.)
17. Squaw Creek (Linn Co.)
18. Stony Creek (Clay Co.)
19. Timber Creek (Marshall Co.)
20. Unnamed Creek (City of Carroll)
21. Willow Creek (Cerro Gordo Co.)

Class A2, B(WW-2) Stream Segments

1. Apple Creek (Linn Co.)
2. Bear Creek (Wapello Co.)
3. Brush Creek (Marshall Co.)
4. Bulger Creek (Dallas Co.)
5. Burr Oak Creek (Jefferson Co.)
6. Clear Creek (Cerro Gordo Co.)
7. Crooked Creek (Cedar Co.)
8. Drainage Ditch #4 (Wright Co.)
9. Drainage Ditch #13 (Hancock Co.)
10. Drainage Ditch #81 (Worth Co.)
11. Dry Creek (Benton/Linn Co.)
12. East Branch Blue Creek (Linn Co.)
13. Fourmile Creek (Kossuth Co.)
14. Fudge Creek (Wapello Co.)
15. Hawkeye-Dolbee Diversion Channel (Des Moines Co.)
16. Indian Creek (Tama Co.)
17. Little Flint Creek (Des Moines Co.)
18. Lutes Creek (Marshall Co.)
19. Marvel Creek (Adair Co.)
20. Murray Creek (O'Brien Co.)
21. Neola Creek (Pottawattamie Co.)
22. North Timber Creek (Marshall Co.)
23. Orange City Slough (Sioux Co.)
24. Sewer Creek (Jasper Co.)
25. Sixmile Creek (Sioux Co.)
26. Snipe Creek (Marshall Co.)
27. Sugar Creek (Keokuk Co.)
28. Unnamed Creek (#1) (City of Atkins)
29. Unnamed Creek (#1) (City of Brighton)
30. Unnamed Creek (#1) (City of Elkhart)
31. Unnamed Creek (#1) (HWH Company)
32. Unnamed Creek (#1) (Lakewood Estates MHP)
33. Unnamed Creek (#1) (Little Sioux Corn Processing)
34. Unnamed Creek (#1) (Missouri Valley Energy – Exira)
35. Unnamed Creek (#1) (Missouri Valley Energy – Exira)
36. Unnamed Creek (#1) (Siouxland Energy)
37. Unnamed Creek (#2) (City of Atkins)
38. Unnamed Creek (#2) (City of Brighton)
39. Unnamed Creek (#2) (City of Elkhart)
40. Unnamed Creek (#2) (City of Middletown)

ENVIRONMENTAL PROTECTION COMMISSION[567](cont'd)

41. Unnamed Creek (#2) (City of Milo)
42. Unnamed Creek (aka Johnson's Creek)
43. Unnamed Creek (Bulk Petroleum)
44. Unnamed Creek (Chantland-PVS Company)
45. Unnamed Creek (City of Creston WWTP)
46. Unnamed Creek (City of Earlville)
47. Unnamed Creek (City of Hedrick)
48. Unnamed Creek (City of Hills)
49. Unnamed Creek (City of Malvern)
50. Unnamed Creek (City of Remsen)
51. Unnamed Creek (City of Sioux Center)
52. Unnamed Creek (City of Sully)
53. Unnamed Creek (Corn Belt Power) (aka Bull Ditch)
54. Unnamed Creek (DNR Viking Lake)
55. Unnamed Creek (Ecosystems Inc.)
56. Unnamed Creek (Echo Valley MHP #2)
57. Unnamed Creek (Heartland Lysine)
58. Unnamed Creek (IAMU)
59. Unnamed Creek (McCreary Community Building)
60. Unnamed Creek (Siouxpreme Packing)
61. Unnamed Creek (Tri-Center Community School)
62. Unnamed Creek (Wells Dairy Mill Plant)
63. Waugh Branch (Keokuk Co.)
64. West Branch Blue Creek (Benton Co.)

Class A2, B(WW-3) Stream Segments

1. Barlene Creek (Lee Co.)
2. Unnamed Creek (#1) (City of Milo)

Class A3, B(WW-2) Stream Segments

1. Brewers Creek (Hamilton Co.)
2. Crow Creek (Jefferson Co.)
3. Dry Creek (Linn Co.)
4. Unnamed Creek (John Deere Davenport Works)
5. Unnamed Creek (Magellan Pipeline – Johnson Co.)
6. Unnamed Creek (Wells Dairy – North Plant)

Class A3 Stream Segments

1. Big Bear Creek (Poweshiek/Iowa Co.)
2. Black Hawk Creek (Black Hawk/Grundy Co.)
3. Elk Run (Black Hawk Co.)
4. Indian Creek (Linn Co.)
5. Mosquito Creek (Pottawattamie Co.)
6. Otter Creek (Franklin Co.)
7. Plum Creek (Delaware Co.)
8. Spring Creek (Franklin Co.)
9. Squaw Creek (Franklin Co.)
10. Willow Creek (Cerro Gordo Co.)
11. Willow Creek (Cerro Gordo Co.)

Class HH Stream Segments

1. Milford Creek (Dickinson Co.)

ENVIRONMENTAL PROTECTION COMMISSION[567](cont'd)

Action was tabled on the recreational use designations for the following stream segments that are proposed as Class A2:

1. Ballard Creek (Story Co.)
2. Black Hawk Creek (Black Hawk/Grundy Co.)
3. Blue Creek (Benton/Linn Co.)
4. Brewers Creek (Hamilton Co.)
5. Deep Creek (Plymouth Co.)
6. Fourmile Creek (Union Co.)
7. Hawkeye Creek (Des Moines Co.)
8. Honey Creek (Delaware Co.)
9. Indian Creek (Audubon/Shelby/Cass Co.)
10. Indian Creek (Sac Co.)
11. Indian Creek (Sioux Co.)
12. Little Cedar River (Mitchell Co.)
13. Little Maquoketa River (Dubuque Co.)
14. Little Walnut Creek (Appanoose Co.)
15. Mitchell Creek (Jefferson Co.)
16. Mosquito Creek (Pottawattamie/Harrison/Shelby Co.)
17. Mud Creek (Polk Co.)
18. Platte River
19. Plum Creek (Delaware Co.)
20. Plum Creek (Delaware Co.)
21. Thompson River
22. Twelvemile Creek (Union Co.)
23. Unnamed Creek (#2) (City of Cincinnati)
24. Unnamed Creek (#2) (City of Hedrick)
25. Unnamed Creek (#2) (Oak Hills Subdivision)
26. Unnamed Creek (City of Huxley)
27. Unnamed Creek (IAAP)
28. Unnamed Creek (John Deere Engineering Center)
29. Unnamed Creek (Stacyville Co-op Creamery)
30. Waterman Creek (O'Brien Co.)
31. West Branch Floyd River
32. Willow Creek (Cerro Gordo Co.)

The aquatic life designations for the following tabled segments have been approved:

1. Blue Creek (Benton/Linn Co.)
2. Brewers Creek (Hamilton Co.)
3. Fourmile Creek (Union Co.)
4. Hawkeye Creek (Des Moines Co.)
5. Honey Creek (Delaware Co.)
6. Indian Creek (Audubon/Shelby/Cass Co.)
7. Indian Creek (Sioux Co.)
8. Little Walnut Creek (Appanoose Co.)
9. Mitchell Creek (Jefferson Co.)
10. Mosquito Creek (Pottawattamie/Harrison/Shelby Co.)
11. Platte River
12. Plum Creek (Delaware Co.)
13. Twelvemile Creek (Union Co.)
14. Unnamed Creek (#2) (City of Cincinnati)
15. Unnamed Creek (#2) (City of Hedrick)
16. Unnamed Creek (#2) (Oak Hills Subdivision)
17. Unnamed Creek (City of Huxley)

ENVIRONMENTAL PROTECTION COMMISSION[567](cont'd)

18. Unnamed Creek (IAAP)
19. Unnamed Creek (John Deere Engineering Center)
20. Unnamed Creek (Stacyville Co-op Creamery)
21. West Branch Floyd River

The stream descriptions provided in this preamble are designed to inform the public and may be subject to nonsubstantive corrections to conform to the format used in the surface water classification document. The surface water classification document adopted by reference herein also contains nonsubstantive revisions to previously adopted stream designations to correct typographical or descriptive errors. All designations conform to the previously approved use designations, as amended by the Commission.

Additional information on Iowa's Water Quality Standards and the Department's rules can be found on the Department's Web site at <http://www.iowadnr.com/water/standards/index.html>.

This amendment may have an impact upon small businesses.

This amendment is intended to implement Iowa Code chapter 455B, division III, part 1.

This amendment will become effective September 16, 2009.

The following amendment is adopted.

Amend subrule 61.3(5) as follows:

61.3(5) Surface water classification. The department hereby incorporates by reference "Surface Water Classification," effective ~~June 11, 2008~~ September 16, 2009. This document may be obtained on the department's Web site at <http://www.iowadnr.com/water/standards/index.html>.

[Filed 7/23/09, effective 9/16/09]

[Published 8/12/09]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 8/12/09.

ARC 8037B

ENVIRONMENTAL PROTECTION COMMISSION[567]

Adopted and Filed

Pursuant to the authority of Iowa Code sections 455B.301A, 455B.302, 455B.306, 455B.310, and 455D.3, the Environmental Protection Commission hereby amends Chapter 101, "Solid Waste Comprehensive Planning Requirements," Iowa Administrative Code.

These amendments are made to aid in clarification and ease of use of these rules and in order to correct inconsistencies between the Code of Iowa and the Iowa Administrative Code. The amendments were written by the Department largely due to suggested revisions received from stakeholders throughout the most recent cycle of solid waste comprehensive plan submittals.

Notice of Intended Action was published in the Iowa Administrative Bulletin on November 5, 2008, as **ARC 7310B**. A public hearing to receive comments on the proposed amendments was held on November 25, 2008. The initial comment period, scheduled to end on November 25, 2008, was extended until May 12, 2009, by an Amended Notice of Intended Action published in the Iowa Administrative Bulletin on April 22, 2009, as **ARC 7728B**, which afforded additional opportunities for the public to submit comments and added a second public hearing. Eight organizations commented on the proposed amendments during the public comment period. The following changes were made in response to the public comments received:

- The exclusion from goal progress calculations for contaminated soils has not been stricken from the rules as some contaminated soils cannot be feasibly remediated to a point at which they are exempt from regulation; leaving this exemption in rule will maintain an incentive for brownfield and contaminated site cleanup projects. As a result of this change, the definition for "contaminated soil" has not been rescinded. To provide additional clarification, the removal of contaminated soils as part of a brownfield or contaminated site cleanup was included as an event that should not negatively affect a planning area's goal progress calculation.